

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

November 5, 2004

IN RE:)	
)	
PETITION FOR APPROVAL OF THE AMENDMENT)	DOCKET NO.
TO THE INTERCONNECTION AGREEMENT)	04-00245
BETWEEN BELL SOUTH TELECOMMUNICATIONS,)	
INC. AND DSLNET COMMUNICATIONS, LLC)	

**ORDER APPROVING
FIFTH AMENDMENT TO THE INTERCONNECTION AGREEMENT**

This matter came before Chairman Pat Miller, Director Deborah Taylor Tate and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on September 27, 2004, to consider, pursuant to 47 U.S.C. § 252, the Petition for approval of the fifth amendment to the interconnection agreement negotiated between BellSouth Telecommunications, Inc. and DSLnet Communications, LLC.

The original interconnection agreement between these parties was filed on January 21, 2003, and was assigned Docket No. 03-00058. It was approved at a regularly scheduled Authority Conference on March 3, 2003. The first amendment was filed on March 6, 2003, under Docket No. 03-00187 and was approved at a regularly scheduled Authority Conference on April 24, 2003. The second amendment was filed on September 3, 2003, under Docket No. 03-00496 and was approved at a regularly scheduled Authority Conference on October 21, 2003. The third amendment was filed on September 30, 2003, under Docket No. 03-00535 and was approved at a regularly scheduled Authority Conference on November 24, 2003. The fourth

amendment was filed on January 7, 2004, under Docket No. 04-00005 and was approved at a regularly scheduled Authority Conference on March 22, 2004.¹ The fifth amendment, which is the subject of this docket, was filed on August 11, 2004.

Based upon a review of the amendment, the record in this matter, and the standards for review set forth in 47 U.S.C. § 252, the Directors unanimously granted the Petition and made the following findings and conclusions:

1) The Authority has jurisdiction over public utilities pursuant to Tenn. Code Ann. § 65-4-104.

2) The amendment is in the public interest as it provides consumers with alternative sources of telecommunications services within BellSouth Telecommunications, Inc.'s service area.

3) The amendment is not discriminatory to telecommunications service providers that are not parties thereto.

4) 47 U.S.C. § 252(e)(2)(A) provides that a state commission may reject a negotiated agreement only if it "discriminates against a telecommunications carrier not a party to the agreement" or if the implementation of the agreement "is not consistent with the public interest, convenience or necessity." Unlike arbitrated agreements, a state commission may not reject a negotiated agreement on the grounds that the agreement fails to meet the requirements of 47 U.S.C. §§ 251 or 252(d).² Thus, although the Authority finds that neither ground for rejection of a negotiated agreement exists, this finding should not be construed to mean that the amendment is consistent with §§ 251 or 252(d) or, for that matter, previous Authority decisions.

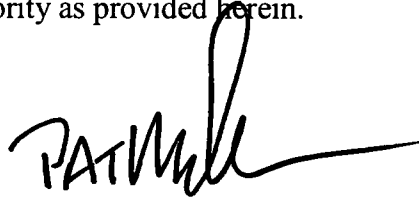
¹ The *Order Approving Third Amendment to the Interconnection Agreement* issued by the Authority on April 2, 2004, in Docket No. 04-00005 incorrectly reflected the procedural history of this docket by stating in the caption of the order the third amendment and not the fourth amendment.

² See 47 U.S.C. § 252(e)(2)(B).

- 5) No person or entity has sought to intervene in this docket.
- 6) The amendment is reviewable by the Authority pursuant to 47 U.S.C. § 252 and Tenn. Code Ann. § 65-4-104.

IT IS THEREFORE ORDERED THAT:

The Petition is granted, and the fifth amendment to the interconnection agreement negotiated between BellSouth Telecommunications, Inc. and DSLnet Communications, LLC is approved and is subject to the review of the Authority as provided herein.



Pat Miller, Chairman



Deborah Taylor Tate, Director



Ron Jones, Director